

560-12-2-.30 Drugs, Medicine and Medical Equipment. Amended.

(1) The tax applies to all retail sales of drugs, medicine, medical supplies and equipment except sales of drugs and oxygen dispensed by prescription or insulin syringes and hearing aids without prescription as provided for herein.

(2) Retailers contracting with certain organizations to fill prescriptions for a flat charge shall collect and remit the tax on the total charge or charges therefore, irrespective of the fact that payments may be made jointly by the consumer and another person.

(3) A retailer holding out to the public that he will absorb all or any part of the tax violates O.C.G.A. 48-8-36 and is subject to the penalties described therein.

(4) Sales to the Federal Government, the State of Georgia, any county or municipality or bona fide department of such government when paid for directly to the seller by warrant on appropriated government funds, including Hospital Authorities created by Chapter 88-18 of the Code of Georgia are exempt.

(a) Certain nonprofit nursing homes or nonprofit general or mental hospitals may purchase drugs, medicines and medical equipment exempt for use in providing nursing home or hospital treatment by furnishing a supplier with a Certificate of Exemption, Form ST-NH-2. (See also Rule 560-12-2-.92).

(b) Sales of drugs, medicine and medical equipment to recipients or beneficiaries under Medicare, Medicaid or other programs, including insurance companies and nonprofit organizations created to take advantage of Acts which make funds available to health and welfare agencies, are taxable.

(c) Dealers participating in the Medicaid/Medicare program who provide durable medical, orthotic and prosthetic equipment to recipients under the program and are paid directly by the government agency, should report the cost price of such equipment on Line 2 of the report form and remit the tax in the month of delivery. Dealers who provide such equipment on a rental basis may elect to include in his gross sales charges made for rental and to pay tax thereon rather than on the cost of the equipment. The measure of the tax on the dealer's use is not related to the taxability of the transaction itself.

(5) The tax does not apply to retail sales of drugs dispensed by prescription, when the composition of the drug, the dispensing of the drug, and the prescription of the drug are in full compliance with the laws and regulations of this State pertaining thereto. As used herein, the word "drugs" means substances such as pills, tablets, powders, capsules and liquids, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings. As used herein, the phrase "dispensed by prescription" means drugs which are actually purchased at retail pursuant to a valid prescription which has been issued to the consumer by a person authorized by law to issue the prescription. This exemption does not include drugs obtained by physicians, hospitals or other medical personnel which are furnished to patients as a part of their treatment, unless separate charges are made to the patient for the drugs and they are drugs which normally require a prescription to obtain and the person furnishing them is a person authorized by law to issue a prescription for such drugs.

Authority Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1951, pp. 360, 385; (Ga. Code Ann., Sec. 92-3438a); O.C.G.A. Secs. 48-2-12 and 48-8-3(47). **History.** Original Rule was filed on June 30, 1965. **Amended:** Original Rule entitled "Drugs, Medicines and Medical Supplies" repealed and a new Rule entitled "Drugs, Medicine and Medical Equipment" adopted. Filed January 13, 1975; effective February 2, 1975. **Amended:** Filed June 4, 1985;

effective June 24, 1985. **Amended:** F. Nov. 27, 1989; eff. Dec. 17, 1989.